

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

DATE: June 25, 1987  
CASE NO. 81-CTA-382

IN THE MATTER OF  
DEPARTMENT OF LABOR

v.

THE CHIPPEWA CREE TRIBE OF THE  
ROCKY BOY'S RESERVATION

BEFORE: THE SECRETARY OF LABOR

:

REMAND ORDER

On April 8, 1987, the United States Court of Appeals for the Ninth Circuit remanded this case to the Secretary of Labor. The Chippewa Cree Tribe of the Rocky Boy's Reservation v. Department of Labor, No. 84-7640. The remand order was issued in response to the motion by counsel for the U.S. Department of Labor, to permit consideration by the Department of whether exceptional circumstances were present in this case which would justify the waiver of the requirement that grant recipients file an appeal from final audit determinations within ten days under Section 106(i)(2) of the Comprehensive Employment and Training Act, 29 U.S.C. § 816(i)(2) (Supp. V 1981).

The Ninth Circuit has held that it was appropriate to apply the exceptional circumstances standard in considering whether to grant relief from the **10-day** filing requirement cited above. The Blackfeet Tribe v. United States Department of Labor, 808 F.2d 1355 (9th Cir. 1987).

It does not **appear** that the Administrative Law Judge (ALJ) Alfred Lindeman applied this standard when he granted the Grant Officer's motion to dismiss the Chippewa **Cree** Tribe's appeal from the Grant Officer's final determination. In the Matter of Department of Labor v. The Chippewa Cree Tribe of the Rocky Boy's Reservation, Case No. 81-CTA-382, April 5, 1984.

This case is REMANDED to the ALJ for such further **proceed-**ings as are appropriate. Specifically, the ALJ shall address -the issue of whether exceptional circumstances were present which would warrant a waiver of the **10-day** requirement. If he finds that such circumstances were present, he shall conduct such further proceedings as may be appropriate to determine the merits of this case.

SO ORDERED.

**William H. Brock**

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Secretary of Labor

Washington, D.C.

signed  
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date @ 8:40